

ATTACHMENT A

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22-2-00298-29
CMP 2
Complaint
12212928



**IN THE SUPERIOR COURT IN THE STATE OF WASHINGTON
COUNTY OF SKAGIT**

JANICE A. MARKER, an Individual,

Plaintiff,

vs.

ATHENAHEALTH, INC., a Massachusetts
corporation doing business in the State of
Washington.

Defendant.

NO. 22-2-00298-29

**COMPLAINT FOR
DISCRIMINATION AND
CONSTRUCTIVE DISCHARGE**

COMES NOW, the Plaintiff, JANICE MARKER by and through her attorneys and
by way of cause of action against the Defendants complains and alleges as follows:

I. PARTIES

1.1 Plaintiff JANICE MARKER is a resident of Skagit County, Washington.

1.2 Defendant ATHENAHEALTH, INC. is a Massachusetts corporation.

II. JURISDICTION AND VENUE

2.1 Plaintiff hereby incorporates and re-alleges all allegations as previously
stated.

2.2 Venue and Jurisdiction of this action are proper in this Court because
events giving rise to the complaints occurred in Skagit County.

COMPLAINT FOR DISCRIMINATION AND
CONSTRUCTIVE DISCHARGE-- 1

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ATTORNEYS AT LAW
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Bellingham, Washington 98225
P 360-752-1500 F 360-752-1502

1 2.3 Plaintiff alleges federal claims against the Defendants under Title VII of
2 the Civil Rights Act of 1964 as amended 42 USC 2000e, *et seq.*

3 2.4 Plaintiff alleges state law claims against the Defendants pursuant to RCW
4 49.60 *et seq.* (Washington Law Against Discrimination).

5 2.5 Plaintiff filed a timely complaint with the US Equal Employment
6 Opportunity Commission (EEOC) and received a Notice of Right to Sue as a
7 prerequisite to commencement of a lawsuit alleging Title VII violations. This action was
8 commenced within the time period required under federal civil rights law.

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10 **III. FACTUAL ALLEGATIONS**

11 3.1 Plaintiff hereby incorporates and re-alleges all allegations as previously
12 stated.

13 3.2 Plaintiff Janice Marker was hired by GE Healthcare, (the company which
14 later known as athenahealth) in October 2015.

15 3.4 Plaintiff received numerous promotions over the years and had excellent
16 performance evaluations.

17 3.5 In 2019 and 2020, Plaintiff raised concerns, on multiple occasions, about
18 gender and age discrimination within the company generally and specifically regarding
19 her applications for promotions within the company.

20 3.6 Plaintiff voiced these concerns to Vice President of implementation and
21 onboarding, Noah Hill, and Executive Director of Customer Service, Joe Mack, who
22 both minimized and denied that such disparate treatment was occurring.

23 3.7 Plaintiff voiced the same concerns to Fran Lawler, Chief Human
24 Resources Officer, Ms. Lawler told her she was aware of the issues.
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26

1 3.8 Plaintiff also complained of disparate treatment of women over 40 being
2 passed up for promotions to Allyson Livingstone, Executive Director of Diversity and
3 Inclusion and HR Business partner Courtney Tigner.

4 3.9 Plaintiff's co-worker Lori Lauritzen made similar complaints of disparate
5 treatment of women over 40.

6 3.10 On or about November 9, 2020, defendant informed the Plaintiff and her
7 co-worker, Lori Lauritzen that their positions were being eliminated.

8 3.11 Prior to this, plaintiff had never received a negative performance review,
9 and had been told by her boss that she was essential to the project she was working on
10 and that her job was secure.

11 3.12 The defendant's alleged restructuring plan was a disguised form of
12 discrimination which was used to eliminate older female employees who had voiced
13 concerns about age and gender discrimination.

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15 **IV. FIRST CAUSE OF ACTION: AGE DISCRIMINATION, UNDER AGE**
16 **DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (PUB. L. 90-202) (ADEA), AND**
17 **§115 OF THE CIVIL RIGHTS ACT OF 1991 (P.L. 102-166) AMENDED SECTION**
18 **7(E) OF THE ADEA (29 U. S.C. 626(E)).**

19 4.1 Plaintiff hereby incorporates and re-alleges all allegations as previously
20 stated.

21 4.2 Plaintiff was passed over for promotions, leadership opportunities and
22 advancement in the company because of her age.

23 4.3 Plaintiff was singled out for termination as a result of her age.

24 4.4 Defendant's acts and omissions constitute age discrimination under Title
25 VII of the Civil Rights Act of 1964 as amended, and under other federal statutes,
26 regulations, and case law.

1 4.5 As a direct and proximate result of Defendants' disability discrimination,
2 Plaintiff has suffered damages in an amount to be proven at trial.

3 **V. SECOND CAUSE OF ACTION: GENDER DISCRIMINATION, UNDER TITLE**
4 **VII OF THE CIVIL RIGHTS ACT OF 1964 AS AMENDED 42 USC 2000e, ET SEQ.**

5 5.1 Plaintiff hereby incorporates and re-alleges all allegations as previously
6 stated.

7 5.2 Plaintiff was passed over for promotions, leadership opportunities and
8 advancement in the company because of her gender.

9 5.3 Plaintiff was singled out for termination as a result of her gender.
10

11 5.4 Defendant's acts and omissions constitute gender discrimination under
12 Title VII of the Civil Rights Act of 1964 as amended, and under other federal statutes,
13 regulations, and case law.

14 **VI. THIRD CAUSE OF ACTION: AGE DISCRIMINATION, UNDER RCW 49.60**

15 6.1 Plaintiff hereby incorporates and re-alleges all allegations as previously
16 stated.

17 6.2 Plaintiff was passed over for promotions, leadership opportunities and
18 advancement in the company because of her age.

19 6.3 Plaintiff was singled out for termination as a result of her age.
20

21 6.4 Defendant's acts and omissions constitute age discrimination under RCW
22 49.60, and under other state statutes, regulations, and case law.

23 6.5 As a direct and proximate result of Defendants' disability discrimination
24 Plaintiff has suffered damages in an amount to be proven at trial.
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VII. FOURTH CAUSE OF ACTION: GENDER DISCRIMINATION, UNDER RCW 49.60

7.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.

7.2 Plaintiff was passed over for promotions, leadership opportunities and advancement in the company because of her gender.

7.3 Plaintiff was singled out for termination as a result of her gender.

7.4 Defendant's acts and omissions constitute gender discrimination under Title VII of the Civil Rights Act of 1964 as amended, and under other federal statutes, regulations, and case law.

VIII. FIFTH CAUSE OF ACTION RETALIATION UNDER FEDERAL LAW

8.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.

8.2 Plaintiff complained about age and gender discrimination within the company as set forth above.

8.3 The plaintiff complaints about discrimination were a substantial factor in the decision to eliminate her position.

8.4 Plaintiff's termination of employment because of complaints of Discrimination constitutes unlawful retaliation in violation of the Civil Rights Act of 1964 as amended 42 USC 2000e, *et seq.* and under other federal statutes, regulations, and case law.

IX. SIXTH CAUSE OF ACTION: RETALIATION UNDER RCW 49.60

8.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.

8.2 Plaintiff complained about age and gender discrimination within the company as set forth above.

8.3 The plaintiff complaints about discrimination were a substantial factor in the decision to eliminate her position.

8.4 Plaintiff's termination of employment because of complaints of Discrimination constitutes unlawful retaliation in violation of RCW 49.60, other state statutes, regulations, and case law.

X. JURY TRIAL

10.1 Plaintiff hereby requests and demands a jury trial.

PRAYER FOR RELIEF

WHEREFORE, having set forth her complaint, Plaintiff prays for judgment as follows:

1. For judgment against Defendant, for compensatory damages and for all losses: past, present, and future.

2. For an award of prejudgment interest, and for an enhanced award for federal tax consequences to make Plaintiff whole.

3. For punitive damages to be assessed against Defendants as provided by law.

4. That Plaintiff be awarded all costs and reasonable attorneys' fees incurred for this action as allowed under state and federal law.

5. That Plaintiff be awarded such other and further relief as this Court may deem just and proper.

1 DATED THIS 15 day of April, 2022.

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3 **BURI FUNSTON MUMFORD
& FURLONG, PLLC**

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6 **TOM MUMFORD, WSBA #28652**
7 **Attorney for Plaintiff Janice Marker**

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26 **COMPLAINT FOR DISCRIMINATION AND
CONSTRUCTIVE DISCHARGE-- 7**

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VERIFICATION

The undersigned declares under penalty of perjury under the laws of the State of Washington, that the statements made in the foregoing Verified Complaint are true and correct to the best of her knowledge and belief.

DATES this 31 day of March, 2022.



Janice Marker, Plaintiff